

# **EXHIBIT 44**

**Filed Under Seal**

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

CIVIL NO. 18-1776 (JRT/HB)  
0:21-MD-02998-JRT-HB  
MDL NO. 2998

IN RE: PORK ANTITRUST LITIGATION

This Document Relates to: All Actions

HIGHLY CONFIDENTIAL

REMOTE VIDEO DEPOSITION OF MARK GINGERICH  
April 14, 2022

REPORTED BY:

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Certified Realtime Reporter  
Registered Professional  
Reporter and Notary Public

1 information serve?

2 MR. TAYLOR: Object to form.

3 Vague. Calls for speculation. Lack of  
4 foundation.

5 A. I think I've tried to explain  
6 this a few times. In a competitive  
7 business, we were striving to be  
8 competitive by subscribing to the  
9 competitive information.

10 Q. You see further down Mr. Solsma  
11 writes: We are lagging in the export  
12 percent but have made up some ground, 13.1  
13 percent versus 22.9 percent for the  
14 competition?

15 A. Okay. Yes. I see that.

16 Q. Did you understand this to refer  
17 to the fact that Tyson was exporting a  
18 lower percentage of its pork than its  
19 competitors?

20 A. That's how I would understand it,  
21 yes.

22 Q. And so Tyson needed to export  
23 more pork to catch up with its competitors'  
24 pork export levels?

25 MR. TAYLOR: Object to form.

1 Lack of foundation. Calls for speculation.

2 A. I didn't have oversight to  
3 international sales. I can only say there  
4 probably were times where we wished to  
5 export more, and maybe there were times  
6 when we didn't wish to export more. I  
7 don't -- I -- That's difficult for me to  
8 answer that.

9 Q. But one of the agenda items for  
10 this meeting was talking about those export  
11 percentages; right?

12 A. It appears that to be the case,  
13 yes.

14 Q. Why would there be times where  
15 Tyson would want to increase the amount of  
16 pork it was exporting?

17 MR. TAYLOR: Object to form.  
18 Object to form. Lack of foundation. Calls  
19 for speculation.

20 A. If the -- If they determined  
21 there was better realization in the export  
22 sales, then that's why they would want  
23 more.

24 Q. Is it true that starting in 2008,  
25 the pork industry began reducing the number

1 of hogs slaughtered and started increasing  
2 the amount of pork that was being exported?

3 MR. TAYLOR: Object to form.  
4 Vague. Lack of foundation. Calls for  
5 speculation.

6 A. Ask that question again, please.

7 Q. Is it true that starting in 2008,  
8 the pork industry began reducing the number  
9 of hogs it slaughtered and started  
10 increasing the amount of pork that was  
11 being exported?

12 MR. TAYLOR: Same objections.

13 A. I do not know the answer to that  
14 question.

15 Q. Let's take a look at tab 11.  
16 We're going to mark this as Exhibit 477.  
17 It's TF-P-001368185 through 86.

18 (Plaintiff's Exhibit  
19 477 was marked for  
20 identification.)

21 A. Okay.

22 Q. The first page is a fair and  
23 accurate copy of an email from Jerry  
24 Holbrook, to you and others, dated February  
25 24, 2010; correct?